

**BEFORE THE NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION**

DeBRUCE GRAIN, INC.,

Appellant,

v.

OTOE COUNTY BOARD
OF EQUALIZATION,

Appellee.

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Case No. 97R-100

DOCKET ENTRY

The Commission called the above-captioned case for hearing on the merits in the City of Nebraska City, Otoe County, Nebraska, on the 2nd day of December, 1997, pursuant to a Notice of Hearing issued the 20th day of October, 1997.

Appellant appeared personally. Appellee appeared through counsel. During the hearing, the Commission took judicial notice of certain information, and each of the parties was allowed to present evidence and cross-examine witnesses of the opposing party. Thereafter the parties rested, and the Commission heard closing statements from the parties.

Neb. Rev. Stat. §77-5018 (Reissue 1996), as amended by 1997 Neb. Laws, L. B. 397 (1997 Session), requires that every final decision and order entered by the Commission which is adverse to a party be stated in writing or on the record and be accompanied by findings of fact and conclusions of law. A quorum of the Commission (Commissioner Hans dissenting), therefore, after hearing the evidence, receiving the exhibits and hearing argument, entered its Findings of Fact, Conclusions of Law, and a final order on the record. The substance of that action is as follows:

FINDINGS OF FACT

- I. That Appellant is the owner of record of certain commercial real property as described in the petition in the instant case.
- II. That Appellant timely filed a protest of the assessed value of its property for tax year 1997.
- III. That the basis for the protest was the allegation that the subject property is assessed at more than market value.
- IV. That the County Assessor proposed valuing the property as follows:

Total	\$1,113,895
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- V. That the Appellant requested an assessed value for tax purposes as follows:

Total	\$ 291,000
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- VI. That the Appellee denied the protest.
- VII. That Appellant thereafter timely filed an appeal of that decision to the Tax Equalization and Review Commission.
- VIII. That professional mass appraisal definition of elements of comparability include the following:
 - A. Overall quality;
 - B. Age;
 - C. Size;
 - D. Amenities;
 - E. Functional utility; and
 - F. Physical condition.

(Property Assessment Valuation, 2nd Edition, page 98.)

- IX. That the comparables chosen by the Taxpayer are not truly comparable to the subject property.
- X. That the assessed value of the subject property for tax year 1997 is supported by the evidence adduced by Appellee.
- XI. That no evidence has been adduced to establish that the decision of the Appellee was unreasonable or arbitrary.

CONCLUSIONS OF LAW

- I. That based on the record before the Commission, the Commission must, and hereby does, conclude as a matter of law that the decision of the Otoe County Board of Equalization which set the assessed value of the subject property for purposes of taxation at \$1,113,895 for tax year 1997 was neither unreasonable nor arbitrary.
- II. That the decision of the Otoe County Board of Equalization to deny Appellant's request to reduce the assessed valuation to \$291,000 was neither unreasonable nor arbitrary.
- III. That therefore the decision of the Otoe County Board of Equalization must be affirmed.

ORDER

- I. That the order of the Otoe County Board of Equalization setting the assessed value of the subject property for tax year 1997 at \$1,113,895 is affirmed.
- II. That Appellants' real property legally described in the petition in the City of Nebraska City, Otoe County, Nebraska, shall be valued as follows for tax year 1997:

Land	\$ 25,070
Improvements	\$1,088,825
Total	\$1,113,895


- III. That this decision, if no appeal is filed, shall be certified within thirty days to the Otoe County Treasurer, and the Otoe County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1997).
- IV. That each party is to bear its own costs in this matter.

The above and foregoing were entered on the record on the 2nd day of December, 1997.

DATED this 18th day of December, 1997.

SEAL





Mark P. Reynolds, Chairman